

The Board considered the record and adopts the stipulations that are listed in the Award. Although obviously considered by the ALJ, it should be noted that the record also contains the June 20, 2003 deposition testimony of L.T. Fleske, M.D., and the exhibit admitted at that deposition without objection.

ISSUES

This claim involves at least two separate accidents and injuries to claimant's left leg (knee) that were consolidated for trial and award purposes. Claimant's Application for Hearing alleged accident dates of "June 2000; August 2000."¹ These dates were clarified at the regular hearing as June 21, 2000 and August 8, 2000.² The parties agreed to treat all accidents together as a single accident and stipulated to use August 8, 2000 as the date of accident.³ The respondent and its insurance carrier (respondent) apparently do not dispute that claimant suffered a compensable scheduled injury to his lower extremity (knee) because the only issue raised in their Petition for Review by The Workers' Compensation Board was the "nature and extent of disability."⁴ Neither party submitted either a brief to the Board or a submission letter to the ALJ, although claimant did submit a letter to the Board asking that the ALJ's Award be affirmed.

The ALJ awarded claimant permanent partial disability compensation based upon the twenty (20) percent functional impairment rating given by claimant's medical expert, board certified psysiatrist Pedro A. Murati, M.D. Presumably, respondent would argue that the fourteen (14) percent opinion given by Dr. Fleske is the most credible and should be adopted.

The nature and extent of claimant's disability, specifically the percentage of functional impairment to his leg, is the only issue for the Board's review.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Board finds that the ALJ's Award should be affirmed. The Board agrees with the analysis of the evidence and law as set forth in the Award and adopts the ALJ's findings, conclusions and orders as its own.

AWARD

WHEREFORE, the Award entered by Administrative Law Judge Jon L. Frobish dated July 17, 2003, is affirmed.

¹ Form K-WC E-1 Application for Hearing (filed May 29, 2002).

² R. H. Trans. at 4.

³ R.H. Trans. at 5.

⁴ Petition for Review by The Workers' Compensation Board (filed July 21, 2003).

WHEREFORE, AN AWARD OF COMPENSATION IS HEREBY MADE IN ACCORDANCE WITH THE ABOVE FINDINGS IN FAVOR of the claimant, Kenneth E. Ragan and against the respondent, Becker Tire and Tread, Inc., and its insurance carrier, United Fire and Casualty, for an accidental injury which occurred August 8, 2000, and based upon an average weekly wage of \$629.91 for six (6) weeks of temporary total disability compensation at the rate of \$401 per week or \$2,406, followed by 38.8 weeks at the compensation rate of \$401 per week or \$15,558.80, for a 20 percent loss of use of the left leg, making a total award of \$17,964.80 less any amounts previously paid.

IT IS SO ORDERED.

Dated this ____ day of December 2003.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Matthew L. Bretz, Attorney for Claimant
James B. Biggs, Attorney for Respondent and United Fire & Casualty Ins. Co.
Jon L. Frobish, Administrative Law Judge
Anne Haught, Workers Compensation Acting Director